

IN THE UNITED STATES DISTRICT,  
EASTERN DISTRICT OF PENNSYLVANIA

DERRICK DALE FONTRY, et al.,  
Plaintiffs,  
- VS -

JEFFREY A. BEARD, et al.,  
Defendants.

Civ. Act. No. 02-2949

Savage, J.

**FILED**

DEC 24 2007

~~By~~ MICHAEL E. KUNZ, Clerk  
~~Dep. Clerk~~

MOTION IN COMPLAINT

TO THE HONORABLE JUDGE SAVAGE:

May 3rd, 2007, Your Honor issued injunctive relief prohibiting the Defendants from opening inmates' legal and Court mail outside of the inmates' presence. On December 11, 2007, SCI-Greene's mailroom violated Your Honor's Order. (See attached 12-12-07 Inmate's Request To Staff Member)

I, Ronald Clark ("CP-507G") am housed at SCI-Greene. I am Plaintiff in Ronald Clark vs.

Jeffrey A. Beard, Louis S. Folino and Lynn Abraham,  
Defendants for where said matter (06-1274) is in  
the U.S.D.Ct., For W.D. of Pa.

In Clark v. Beard, et al., Magistrate Judge Lisa  
Pupo Lenihan issued her Report and Recommendation  
in recommending dismissal in favor of Defendants on  
November 26, 2007. I received the R.R. On  
November 27, 2007, and on December 3, 2007, I mailed  
to the Court my timely objection.

December 11, 2007, the objection's returned to me  
via the Post office directing I add an addition .17<sup>¢</sup>  
postage; the prison mail office failed to weigh the  
mail.

The mail was returned to me eight (8)  
days later through the Regular mail System. As  
result of the delay of return to Sender and the  
regular mail system I am[technically] in default  
of the ten(10) days to file my objections through  
no fault of my own. Had the mail been returned  
to me through the legal mail system I would have

been able to sign for it; which, would have/could have been proof I could present to the Court regarding my timely objection and in delay of eight (8) days at return to sender.

At attached DC-135A I am told the filing is no longer considered legal once returned to me for whatever reason, which with all due respect is nonsensical and which is a ~~violation~~ violation of Your Honor's issued May 3rd, 2001, injunction against the type of herein violation. Though Your Honor has no authority over my matter in the Western District Your Honor can see the potential hurdle I face in light of Your Honor's Order being violated regard "State-wide" inmates' legal mail.

If Your Honor finds the matter above falls within the meaning of Your Honor's Order, Defendants and/or their agents must be made aware of such.

CERTIFICATE OF SERVICE

I, Ronald Clark, do hereby certify that on this  
21st day of December, 2007, I mail first-class  
through the internal prisoner mailbox system a copy of  
the foregoing Motion In Complaint upon the  
parties listed below:

Office of Chief Counsel  
for D.O.C.

Debra Sue Rand, ESQ.,  
55 Utley Drive  
Camp Hill, PA 17011

15/RC

Ronald Clark CP5079  
SCI Greene  
175 Progress Drive  
Waynesburg, PA  
15370-8089

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Form DC-135A

## INMATE'S REQUEST TO STAFF MEMBER

Commonwealth of Pennsylvania  
Department of Corrections

## INSTRUCTIONS

Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.

1. To: (Name and Title of Officer)Mailroom Supervisor3. By: (Print Inmate Name and Number)Ronald Clark CP5079Ronald

Inmate Signature

6. Work Assignment2. Date:

12-12-07

4. Counselor's Name

Crick

5. Unit Manager's Name

Palya

7. Housing Assignment

L B 7

8. Subject: State your request completely but briefly. Give details. 12-11-07 I received back the 12-3-07 Plaintiff's objection to mag's R.R. that I had mailed to the Federal Court in Pittsburgh using one of my 10 free envelopes. Said was returned to me with a Return to Sender stamp for an additional .17¢, the legal mail was opened outside of my presence when if opened in my presence would have been confirmation of my receiving back on 12-11-07. Why was the mail opened outside my presence when it was legal mail, although Return to Sender? The mail was given to me opened with regular mail delivery by officer Plavchak.

It left the institution, but since it left and was returned for what ever reason it has to be checked for contraband. DC-ADM1 803 does not cover incoming Return to sender mail as privileged correspondence.

To DC-14 CAR only To DC-14 CAR and DC-15 IRS 

Staff Member Name

Print

Sign

Date

12-12-07